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Viewing cable 09PORTAUPRINCE863, PRESIDENT PREVAL DISCUSSES COURT REFORM AND

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Reference ID	Created	Released	Classification	Origin
09PORTAUPRINCE863	2009-10-06 17:47	2011-08-30 01:44	SECRET	Embassy Port Au Prince

Appears in these articles:

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VZCZCXRO8957
OO RUEHQU
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S E C R E T SECTION 01 OF 03 PORT AU PRINCE 000863

C O R R E C T E D C O P Y--PARAGRAPH NUMBERING

SIPDIS

STATE FOR S, C, WHA/CAR, DRL, S/CRS,

INL FOR KEVIN BROWN, HEATHER WILD AND MEAGAN MCBRIDE
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E.O. 12958: DECL: 10/01/2019

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SUBJECT: PRESIDENT PREVAL DISCUSSES COURT REFORM AND
ELECTIONS

PORT AU PR 00000863 001.5 OF 003

Classified By: Ambassador Kenneth H. Merten. Reason: E.O. 12958 1.4 (b), (d)

¶1. (S) SUMMARY. During a September 30 - October 1 visit to Port-au-Prince, Department Counselor Cheryl Mills met with President Rene Preval and Prime Minister Michele Pierre-Louis. Preval discussed justice reform and his intent to replace potentially all (or all but one) Supreme Court judges. He also expressed his commitment to having the Constitution amended before the next President takes office, thus setting a deadline for parliamentary elections. Preval stressed this point in a meeting he called for with the diplomatic community on October 5. END SUMMARY.

PREVAL TO FIRE SUPREME COURT

¶2. (S) Department Counselor Mills and the Ambassador met with President Preval on September 30. Preval began the meeting by re-iterating his commitment to first addressing basic problems linked to security and stability (including elections and justice reform) before undertaking new GOH actions in the areas of investment or agriculture. In his view, the justice system stands as 'the last bastion of those opposed to reform.' Preval stressed that he viewed the Supreme Court as ineffective and that most Supreme Court judges had been nominated illegally (their appointment did not follow the Constitutional procedure by which the Senate proposes candidates and the President then appoints judges for a 10 year mandate each). Preval said that he intended to replace all (or all but one) of the judges in the following weeks, focusing mainly on appointing non-corrupt and competent judges. Preval clarified that he would not fire the current judges until he is ready to appoint new ones. He also expressed concern over the lack of integrity of the president of the Senate Commission on Justice and Security, Senator Youri Latortue, implying ties to the drug trade. He supported his viewpoint by recalling the USG's alleged refusal to allow Latortue to travel to the United States.

¶3. (C) Mills responded by affirming USG support to the GOH in reforming the justice sector, in consolidating stability, and in its counternarcotics efforts but underscored that any change to the Supreme Court or any other aspect of the judicial system - particularly one this radical - must be done in a transparent manner in full accordance with the law. DOJ's Carl Alexandre outlined for Preval the preliminary findings of the USG interagency team conducting an assessment of USG assistance to the justice sector. Alexandre said the team had identified the following issues as areas for concern in reforming the justice sector: the nomination of a president of the Supreme Court, the reform of the criminal code, the high level of pre-trial detention, the need for investing resources in the justice system as was done in the police sector, and the humanitarian concerns arising from overcrowding and corruption in the correction services.

¶4. (C) Preval responded by stating that the biggest impediment in reforming the justice system and addressing the expressed concerns was the lack of willingness by the concerned actors, and that he would address these by first installing competent judges in the Supreme Court.

CONSTITUTIONAL CHANGE AT ALL COST

15. (C) Preval then discussed his desire to have parliamentary elections in time for the purpose of having the next legislature pass the constitutional amendments. Given that the proposed amendments would reduce the frequency of elections and create a Constitutional Council to act as mediator between the Executive and Legislative, Preval stressed that the amendments were vital to increasing political stability and that they must be passed before the next President comes into power in February 2011. 'If we missed this opportunity,' he said, 'we will have to wait for 2016 to try this again.' Preval then re-affirmed his position that the current provisional electoral council (CEP) is competent and unbiased. However, he conceded that CEP vice-president Rodol Pierre's public accusation that the CEP's president committed fraud was inappropriate (Pierre made public accusations after his protege candidate lost in the South). Preval stressed that he was willing to agree on a political consensus to make some changes within the CEP (especially in the case of Rodol Pierre), but that he would not jeopardize the constitutional amendment process in any way by postponing elections. Preval mentioned that May 12, 2010 is the last day the new legislature could review the constitutional amendments (unless there is an agreement among the political actors), and that elections must therefore take place so as to have a new parliament at the latest in April.

PREVAL MEETS WITH INTERNATIONAL COMMUNITY

16. (SBU) Preval summoned much of the diplomatic community to the Palace for a briefing on October 5. He explained that parliamentary elections were necessary and that they needed to happen quickly. While not specifying exact dates, he outlined a general timetable that would meet the 'need to seat those elected before May 12.' He explained that the Haitian government would be coming to key donors that had funded elections in the recent past and would be asking for financial and technical help. He also explained that these elections were of particular importance due to the need for the newly seated parliament to vote on the constitutional reforms. If the constitutional reforms passed, he said, Haiti would no longer need to come annually to donors asking for money to support elections; this would happen only once every five years.

17. (SBU) Preval also briefed on his plans for the CEP. He explained that there was pressure from a few quarters to create a new CEP. These calls reflected the views of a tiny minority. He opined that observers had determined that the April elections were held correctly and with complete impartiality (a word he emphasized repeatedly, saying that the main job of any CEP was to ensure that the elections were impartial). Given that time is short, he said he hoped to keep all current members of the CEP but one; the individual he himself appointed prior to the April elections. He will choose a replacement for that person. He promised to write to each of the groups that had nominated members to the CEP (Representatives of the Catholic Church, the Protestant churches, the Episcopal Church, disabled person, women's groups, etc.) and ask them whether they continued to stand behind their current representative on the CEP - with the hope and expectation that each group would. This way he believed that elections will be able to move forward quickly.

After his prepared remarks, President Preval answered several questions at one point raising his right hand and smiling while commenting, 'I swear I will leave the Presidency as planned.' He repeatedly emphasized that 'we are in a hurry' to get these elections done in a timely fashion. The diplomatic community was generally supportive of his plan, but expressed hope that the Haitian Government could share a more exact elections timetable and a more defined request for support in the near future.

18. (C) COMMENT. Preval's commitment to addressing outstanding problems in the justice sector comes late in the game if justice sector reforms are to succeed in his last year in office. Replacing all Supreme Court judges will not be received well by the political opposition (something he

says he expects), as he will be seen to be appointing his allies and undermining the institution's independence. His positions on the integrity of the CEP and the Senatorial elections are at odds with the perceptions of the political parties and the international community (whose opinion is held in private), and do not address those legitimate concerns of fraud and bias raised by opposition leaders which Preval and the CEP simply ignored. It is important that legislative elections be held as close to their original schedule (November 2009) as possible, both for the credibility of the electoral process in Haiti and for the possibility of securing needed constitutional reforms. This would require pre-elections preparations to begin immediately.

18. (U) Counselor Mills cleared this cable.
MERTEN